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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,698	03/18/2002	Paolo Cittadini	6502-1521	2352

7590 09/22/2004

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EXAMINER

STRIMBU, GREGORY J

ART UNIT PAPER NUMBER

3634

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/088,698	Applicant(s) CITTADINI ET AL. Km	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004 and 05 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-9, 11, 12 and 14-22 is/are pending in the application.
- 4a) Of the above claim(s) 14-19 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-9, 11, 12, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election with traverse of Group I in the reply filed on July 2, 2004 is acknowledged. The traversal is on the ground(s) that the magnet configuration is the same invention as the gasket. This is not found persuasive because a gasket is a different invention from a magnet as evidenced by their different classification. Additionally, the independent claim 20 directed to the gasket invention includes very specific limitations regarding the gasket itself and an additional auxiliary magnetized element. Therefore, the requirement is still deemed proper and is therefore made FINAL. Claims 14-19 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 2, 2004.

Claim Rejections - 35 USC § 112

Claims 2-9, 11, 12, 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "the corresponding laterally adjacent segment" on lines 13-14 of claim 20 render the claims indefinite because they lack antecedent basis. Recitations such as "the magnetized elements" on line 18 of claim 20 render the claims indefinite because it is unclear what the applicant is attempting to set forth since only one magnetized element has been described above on lines 4-14. Pronouns such as

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"it" on line 1 of claim 21 should be changed to refer to the specific noun to which the applicant is referring. Recitations such as "magnetized advance continuously" on lines 3-4 of claim 21 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Recitations such as "a main face" on line 6 of claim 21 render the claims indefinite because it is unclear what element includes the face to which the applicant is referring. Recitations such as "segment" on line 8 of claim 21 render the claims indefinite because it is unclear if the applicant is referring to one of the segments set forth above or is attempting to set forth another segment in addition to the ones set forth above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, 5, 8, 9, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application No. 0 559 267 in view of Anderson. European Patent Application No. 0 559 267 discloses a magnetic sealing gasket comprising a support section bar comprising an attachment base 11 and a rabbet portion 19 presenting a striking face 15, a one-piece magnetized element 16 inserted in said rabbet portion of the support section bar and having on a main face (not numbered, but shown in figure 2) corresponding to said striking face, and an auxiliary magnetized

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element 16. European Patent Application No. 0 559 267 is silent concerning magnetized bands.

However, Anderson discloses a magnetized element having first and second longitudinal adjacent bands as shown in figure 3.

It would have been obvious to one of ordinary skill in the art to provide European Patent Application No. 0 559 267 with a magnetized elements, as taught by Anderson, to concentrate the magnetic forces at the striking face.

Claims 3, 4, 5, 8, 9, 11, 12, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiel in view of Anderson. Kiel discloses a magnetic sealing gasket comprising a support section bar comprising an attachment base 40 and a rabbet portion 42 presenting a striking face (not numbered, but shown in figure 3) a one-piece magnetized element 44 inserted in said rabbet portion of the support section bar and having on a main face (not numbered, but shown in figure 3) corresponding to said striking face, and an auxiliary magnetized element 66. Kiel is silent concerning magnetized bands.

However, Anderson discloses a magnetized element having first and second longitudinal adjacent bands as shown in figure 3.

It would have been obvious to one of ordinary skill in the art to provide Kiel with a magnetized elements, as taught by Anderson, to concentrate the magnetic forces at the striking face.

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With respect to claims 11, 12 and 21, the manufacture of the apparatus as disclosed by Kiel in view of Anderson would inherently lead to the method steps of claims 11, 12 and 21.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiel in view of Anderson as applied to claims 3, 4, 5, 8, 9, 11, 12, 20 and 21 above, and further in view of Hill et al. Hill et al. discloses a magnetized element comprising a plasto-ferrite.

It would have been obvious to one of ordinary skill in the art to provide Kiel, as modified above, with a construction, as taught by Hill et al., to reduce the weight of the seal.

Response to Arguments

Applicant's arguments filed March 5, 2004 have been fully considered but they are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action since the applicant presented new claims 2-9, 11, 12, 20 and 21. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
September 20, 2004